

Remarks

By the foregoing Amendment, claim 11 is amended. No new matter is added by this Amendment. Entry of the Amendment, and favorable consideration thereof, is earnestly requested.

The Examiner has maintained the rejection of independent claims 1, 11 and 12 under 35 U.S.C. §102(b) as anticipated by Enomoto, U.S. Patent No. 5,709,535. Applicant has amended independent claims 11 and 12 to clarify the structural nature of the claimed invention. Applicant respectfully requests reconsideration of these rejections in view of the foregoing amendment and the below remarks.

Independent Claim 1

Applicant maintains that Enomoto does not anticipate independent claims 1, as Enomoto does not disclose "a compressor head mounted adjacent to said second plate, said compressor head having a discharge channel into which the at least one flap of said second plate opens."

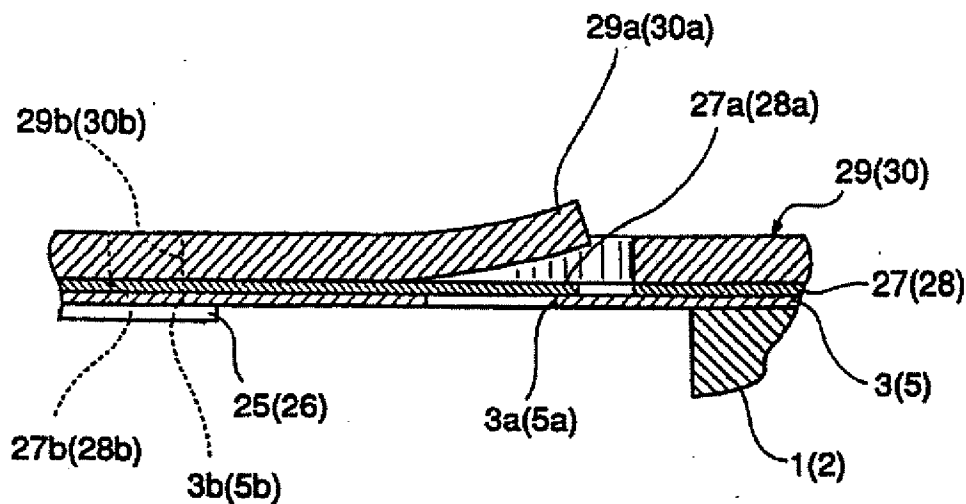
Applicant respectfully reiterates that it is clear from the disclosure of Enomoto that it does not disclose flaps that open into the discharge channel of the compressor

head. Applicant notes that the Official Actions simply keep repeating the general assertion that figure 3 shows that the flap flexes into the discharge channel of the compressor head. As again explained below, this is clearly not the case. Applicant respectfully submits that the Official Actions have not addressed Applicant specific explanation of why Figure 3 does not disclose flaps that open into the discharge channel of the compressor head.

As explained in Applicant's previous Responses, while Enomoto does disclose adjacent first and second plates with corresponding apertures/flaps, the inclined member 30a that extends upwards into the compressor head discharge channel is actually a portion of a stopper plate 30—it is not a flap of the cited "second plate" that is mounted adjacent the "first plate" (which is in turn mounted adjacent the pump mechanism). Though the Final Office Action states that this inclined portion of the stopper plate "does not prevent the flap of the second plate from entering the compressor head, but instead, simply limits the extent to which the flap enters" (Final O.A. at 7), Applicant respectfully notes that this is simply not the case, and this is clearly described and illustrated in both Figures 3 and 4.

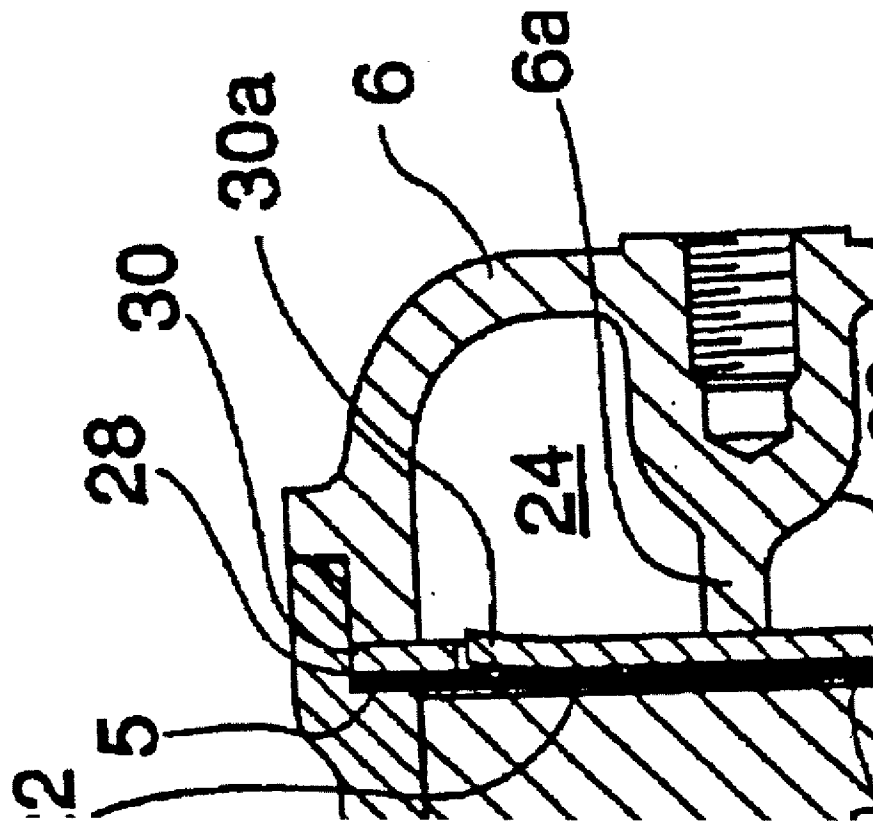
The disclosure states that Figure 4 is an enlarged view of the relevant portion of Figure 3. See Col.4, Ins 45-46 & Col.5, Ins 36-37. As shown in Figure 4 (reproduced below) the member 29a(30a) of the stopper plate 29(30) is a rigid portion of the stopper sheet that specifically prevents the flap 27a(28a) of the second plate 27(28) from flexing up into the compressor head. See Fig. 4; Col.5, Ins 51-62.

FIG.4



As can be seen clearly in Figure 4, the flap 27(a) never breaks the plane of the stopper sheet 30. Accordingly, the flap 27(a) never flexes up into the compressor head located adjacent the stopper sheet.

Applicant notes that Figure 3 itself, if blown up as in the reproduction below, shows that it is only the member 30a of the stopper sheet 30, not the flap in the second plate 28, that enters the discharge channel of the compressor head:



Applicant respectfully requests that the Examiner either specifically explain why this analysis is incorrect and why Enomoto allegedly discloses that the flap of the second plate enters the discharge channel of the compressor head, or else allow claim 1.

Additionally, Applicant also again notes that, for the reasons set forth in its prior responses, it would not have been obvious for one skilled in the art to make this change because, first, there is simply no suggestion to do so, and further, because Enomoto's specific teaching to employ a stopper plate design (1) specifically teaches against allowing the flaps to flex into the compressor head discharge channel, and (2) such a modification would completely change the basic design of Enomoto and render it unsuitable for its intended purpose.

Independent Claim 11

As explained above in reference to claim 1, Enomoto discloses a compressor that, as a fundamental aspect of its design, employs a stopper plate between the second valve plate and the cover. Accordingly, Applicant has observed that Enomoto does not disclose "a cover *mounted adjacent* the second plate," as that plate is defined in the rest of the claim (i.e., mounted adjacent a first plate, which is in turn mounted adjacent the pump mechanism, the first and second plates having corresponding flexing flaps/apertures).

However, in the Final Office Action, the Examiner asserted that "the term adjacent does not prevent an element or object from existing between two elements considered adjacent." Final O.A. at 7. Accordingly, it is apparently the Examiner's position that the term "adjacent" does not necessarily imply abutting. Accordingly,

Applicant has amended claim 11 to specifically recite “adjacent to and abutting” in order to, as noted in the Advisory Action, “require direct contact between the cover and the second plate.” Advisory Action at 2.

Applicant also notes, for the same reasons explained above, the invention recited in claim 11 would not be obvious over Enomoto, as modifying the Enomoto design to eliminate the stopper plate between the plate and the cover would be contrary to its explicit teachings and its intended purpose.

Independent Claim 12

As explained in Applicant’s previous responses, Enomoto does not anticipate or render obvious claim 12 because it does not in any way teach or fairly suggest such an inlet port as claimed. Applicant’s argument in this regard is addressed for the first time in the Advisory Action with a single sentence, which construes certain claim language unreasonably broadly and simply ignores other claim language. Specifically, the Advisory Action states: “however the swash plate housing (1,2,4,6) includes an inlet port 229b which is integral with suction port 23 formed in the housing.” Advisory Action at 2. Applicant respectfully notes that this falls far short of explaining how Enomoto allegedly satisfies the claim language describing the inlet port.

First, Applicant notes that claim 12 claims:

a swash plate housing at least partially enclosing a swash plate chamber;

a cylinder block mounted to said swash plate housing, said cylinder block having at least one passageway and at least one piston channel...

The swash plate channel, which includes the swash plate chamber, and the cylinder block, which includes the at least one piston channel, are claimed separately, mounted to each other, and are clearly not co-extensive. Accordingly, it is inappropriate to construe all of Enomoto's parts 1, 2, 4, 6 as the "swash plate housing," and then assert that the inlet port is in such housing.

Second, claim 12 claims:

a cylinder block mounted to said swash plate housing, said cylinder block having at least one passageway and at least one piston channel...

a first fluid pathway defined when the at least one flexing flap of said second plate is disposed against the at least one aperture of said first plate and the at least one flexing flap of said first plate is biased away from the at least one aperture of said second plate, in which fluid flows through said inlet port and into said swash plate chamber, through the passageway, into said cover, through the at least one aperture in said second plate, past the at least one flexing flap in the first plate, and into the piston channel...

The inlet of Enomoto is clearly different this, as Enomoto employs a standard inlet port in the compressor head. The underlined claim language above makes it clear how the input port of the claimed invention is very different from Enomoto's, both by identifying its location (in the "swash plate housing"), as previously explained, and by clearly detailing the order of the fluid flow—namely, first into the swash plate chamber through the port, then through the passageway in the cylinder block, then into the cover, and

then down through the aperture in the second plate and past the flap into piston channel. This is clearly completely different from the inlet disclosed in Enomoto.

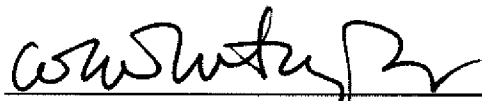
Indeed, applicant notes that such a port could not work in a compressor such as Enomoto, as the Enomoto reference does not disclose any such passageway for communicating fluid from a swash plate chamber to the cylinder bores, and such would be impractical due to the basic housing and piston design of Enomoto.

Applicant respectfully notes that Applicant's specific explanation about the clearly illustrated disclosure (Figs 3-4) relevant to independent claim 1 has never been addressed, that the Examiner's position regarding the meaning of the term "adjacent" relevant to independent claim 11 was not set forth until the Final Office Action (and entry of a clarifying amendment was then not permitted), and that the relevant limitations of claim 12 were never even mentioned until the Advisory Action. Applicant has now already had to submit a Request for Continued Examination. Accordingly, Applicant respectfully implores the Examiner to fully address each of Applicant's specific arguments set forth above in the next Office Action or else allow the claims.

For the reasons set forth above, it is respectfully submitted that claims 1-17, all of the claims remaining in the application, are in order for allowance, and early notice to that effect is respectfully requested.

Respectfully submitted,

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